

**Notice of Allowability**

Application No.

09/858,458

Examiner

Freda A. Nelson

Applicant(s)

WALKER ET AL.

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3639

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed July 26, 2006.
2. ☒ The allowed claim(s) is/are 3-25.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |                                                                                                                     |                                                                                       |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                         | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                 | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|                                                                                                                     | 9. <input type="checkbox"/> Other _____                                               |

***Response to Amendment***

The amendments received on July 26, 2006 is acknowledged and entered. Claims 3 and 21-25 have been amended. Claims 1-2 have been canceled. No claims have been added. Claims 3-25 are currently pending.

Claim rejections under 35 USC § 101 have been withdrawn due to the applicant's amendment.

The terminal disclaimers filed by applicants on August 2, 2006, in regards to U.S. Patent Nos. 6,298,331, 6,598,024, and 6,397,193, have overcome the obviousness double patenting rejections.

***Allowable Subject Matter***

Claims 3-25 are allowed.

The following is an examiner's statement of reasons for allowance:

1. As per independent claims 3, 16, and 21, specifically, Hall (US Patent Number 6,131, 399) does not disclose or fairly teach:

setting a price range of the food product based on the time until expiration; and storing, on a storage device, an indication that the food product may be offered in exchange for a round-up amount if the round-up amount is within the price range.

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2. As per independent claims 5, 17, and 22, specifically, Hall (US Patent Number 6,131, 399) does not disclose or fairly teach:

calculating a round-up amount, the round amount being a difference between the purchase price and the rounded price;

identifying a food product and a corresponding price range of the food product, wherein the round-up amount is within the price range; and

offering the food product in exchange for the round-up amount.

3. As per independent claims 10, 18, and 23, specifically, Hall (US Patent Number 6,131, 399) does not disclose or fairly teach:

determining a status of at least one characteristic of a food product, the at least one characteristic being indicative of the age of the food product:

setting a price range of the food product based on the status, wherein the price range defines a minimum price and a maximum price;

generating a purchase price of a purchase;

generating a rounded price;

calculating a round-up amount, the round amount being a difference between the purchase price and the rounded price; and

causing the food product to be offered in exchange for the round-up amount if the round-up amount is within the price range.

4. As per independent claims 12 and 19, specifically, Hall (US Patent Number 6,131, 399) does not disclose or fairly teach:

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determining a time until expiration of a food component;  
causing the food component to be made into a food product if the time until expiration is less than a predetermined threshold;  
setting a minimum price for the food product based on the time until expiration of the food component; and  
causing the food product to be offered in exchange for a round-up amount, wherein the round-up amount is a difference between a purchase price and a rounded price of a purchase.

5. As per independent claims 13, 15, 20, and 25, specifically, Hall (US Patent Number 6,131, 399) does not disclose or fairly teach:

determining a food product corresponding to the food component;  
setting a price range for the food product, wherein the price range defines a minimum price and a maximum price; and  
causing an offer to exchange the food product for a round-up amount if the round-up amount is within the price range to be output, wherein the round-up amount is a difference between a purchase price and a rounded price of a purchase.

6. The foreign prior art of record, specifically, JP 08147545, while disclosing an automatic vending machine, fails to disclose or fairly teach:

setting a price range of the food product based on the time until expiration;  
and storing, on a storage device, an indication that the food product may be

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offered in exchange for a round-up amount if the round-up amount is within the price range.

7. The NPL prior art of record, specifically, "Round 'n' Round they go", fails to disclose or fairly teach:

setting a price range of the food product based on the time until expiration; and storing, on a storage device, an indication that the food product may be offered in exchange for a round-up amount if the round-up amount is within the price range.

8. The remaining dependent claims are considered allowable, as they are dependent and based off of an allowable independent claim.

9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

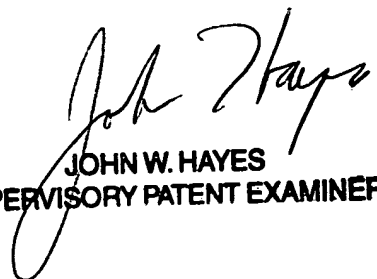
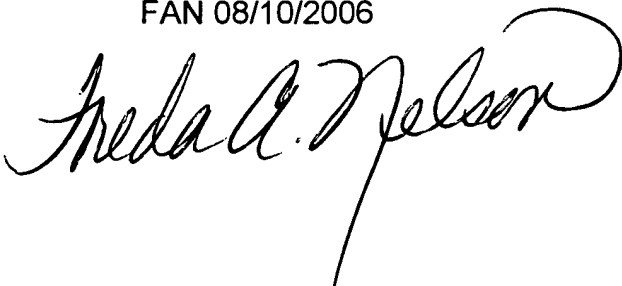
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday - Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FAN 08/10/2006



JOHN W. HAYES  
SUPERVISORY PATENT EXAMINER